

REMARKS

Claims 11 and 13-28 are pending in the present application. Claims 11 and 13-20 have been amended. Claims 21-28 have been presented herewith. Claim 12 has been canceled.

Priority Under 35 U.S.C. 119

Applicants note the Examiner's acknowledgment of the Claim for Priority under 35 U.S.C. 119, and receipt of the certified copy of the priority document.

Drawings

Applicants note the Examiner's acceptance of the drawings as filed along with the present application.

Specification

The abstract has been objected to for the reasons as stated at the top of page 4 of the current Office Action dated August 1, 2008. The abstract has been corrected accordingly. Also, the application has been corrected to include the suggested headings. The Examiner is therefore respectfully requested to withdraw the corresponding objection.

Claim Rejections-35 U.S.C. 102

Claims 11, 12, 16 and 17 have been rejected under 35 U.S.C. 102(b) as being unpatentable over the Kasdan et al. reference (U.S. Patent No. 4,093,866). This rejection is respectfully traversed for the following reasons.

The pulse size analyzer of claim 11 includes in combination among other features that "the threshold voltages of the comparators are non-equidistant from each other". These features are somewhat similar to the features of previous claim 12.

Regarding claim 12, the Examiner has asserted that column 8, lines 38-44 of the Kasdan et al. reference discloses thresholds of comparators that are non-equidistant. However, as described in column 8, lines 38-44 of the Kasdan et al. reference with respect to Figs. 5 and 6, the reference voltages progressively increase in steps of 1.25 volts. This can be seen in Fig. 5, wherein the reference voltages increase by steps of 1.25 volts, as acknowledged by the Examiner. In other words, the threshold voltages in the Kasdan et al. reference as particularly shown in Figs. 5 and 6 are equidistant from each other, that is each is separated from neighboring thresholds by a step of 1.25 volts. Clearly, the threshold voltages are not non-equidistant from each other as would be necessary to meet the features of claim 11.

Incidentally, the use of non-equidistant distribution of threshold voltages as in the present application enables investigation of the properties of different types and sizes of cells passing through a Coulter counter. The use of non-equidistant distribution also enables minimization of the number of thresholds needed for determining size

distribution of cells. In the Kasdan et al. reference, the threshold voltages are distributed equidistantly, wherein the distribution of the pulses analyzer always has the same maximum and minimum, because the pulse is generated responsive to a light source having a predefined intensity.

Accordingly, Applicant respectfully submits that the pulse height analyzer of claim 11 distinguishes over the Kasdan et al. reference as relied upon by the Examiner, and that this rejection, insofar as it may pertain to claims 11, 16 and 17, is improper for at least these reasons.

Claim Rejections-35 U.S.C. 103

Claims 13 and 14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kasdan et al. reference in view of the Koch et al. reference (U.S. Patent No. 4,817,208) and the Bee et al. reference (U.S. Patent No. 5,528,303). Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kasdan et al. reference in view of the linuma reference (U.S. Patent No. 4,879,464). Claim 19 has been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kasdan et al. reference in view of the Miers reference (U.S. Patent No. 5,719,667). Also, claim 20 has been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kasdan et al. reference in view of the Tumer et al. reference (U.S. Patent Application Publication No. 2003/0105397).

Applicants respectfully submit that the above noted secondary references as specifically relied upon by the Examiner do not overcome the above noted deficiencies of the primarily relied upon Kasdan et al. reference. Accordingly, Applicants respectfully submit that claims 13, 14 and 18-20 would not have been obvious in view of the prior art as relied upon by the Examiner taken singularly or together, and that these rejections are improper for at least these reasons.

Allowable Subject Matter

Applicants note the Examiner's acknowledgement that claim 15 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. In view of the acknowledgment of allowable subject matter, claim 15 has been amended to be in independent form as including the features of base claim 11. The Examiner is therefore respectfully requested to acknowledge that claim 15 is allowed.

Claims 21-28

Applicants respectfully submit that claims 21-28 as dependent upon claim 15, should each respectively be allowable for at least the same reasons as claim 15. The Examiner is therefore respectfully requested to acknowledge that claims 21-28 are allowed.

Conclusion

The Examiner is respectfully requested to reconsider and withdraw the corresponding rejections, and to pass the claims of the present application to issue, for at least the above reasons.

In the event that there are any outstanding matters remaining in the present application, please contact Andrew J. Telesz, Jr. (Reg. No. 33,581) at (571) 283-0720 in the Washington, D.C. area, to discuss these matters.

Pursuant to the provisions of 37 C.F.R. 1.17 and 1.136(a), the Applicants hereby petition for an extension of three (3) months to February 1, 2009, for the period in which to file a response to the outstanding Office Action. The required fee of \$1110.00 should be charged to Deposit Account No. 50-0238.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for any additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-0238.

Respectfully submitted,

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